



**MINUTES
of the
THREE-HUNDRED-FIRST MEETING
of the
LEGISLATIVE COUNCIL
May 9, 2006
Santa Fe**

The three-hundred-first meeting of the Legislative Council was called to order on Tuesday, May 9, 2006, at 10:20 a.m. in Room 307 of the State Capitol by Senator Ben D. Altamirano, co-chair.

Present

Sen. Ben D. Altamirano, Co-Chair
Rep. Ben Lujan, Co-Chair
Sen. Kent L. Cravens
Sen. Joseph A. Fidel
Rep. Ted Hobbs
Sen. Stuart Ingle
Rep. Terry T. Marquardt
Rep. W. Ken Martinez
Rep. Rick Miera
Sen. Leonard Lee Rawson
Sen. Michael S. Sanchez
Rep. Sheryl Williams Stapleton
Rep. Jeannette O. Wallace
Rep. Donald L. Whitaker

Special Advisory Members

Rep. Donald E. Bratton
Sen. Carlos R. Cisneros
Sen. Dianna J. Duran
Rep. Irvin Harrison
Rep. Patricia A. Lundstrom
Rep. James Roger Madalena
Sen. Cisco McSorley
Sen. Lidio G. Rainaldi
Rep. Debbie A. Rodella
Rep. Joe M Stell

Absent

Sen. Pete Campos
Sen. Timothy Z. Jennings

Special Advisory Members Absent

Rep. Justine Fox-Young
Sen. Mary Jane M. Garcia
Sen. John T.L. Grubestic
Sen. Steven P. Neville
Rep. Al Park
Sen. William H. Payne
Sen. John Arthur Smith
Rep. Teresa A. Zanetti

Staff

Paula Tackett, Director, Legislative Council Service (LCS)
Kathy Pacheco-Dofflemeyer, Assistant Director for Administration, LCS
John Yaeger, Assistant Director for Legislative Affairs, LCS
Raul Burciaga, Assistant Director for Drafting Services, LCS
Jeret Fleetwood, Locator Coordinator, LCS

On a motion made, seconded and unanimously approved, the minutes of the January 16, 2006 meeting of the Legislative Council were approved as submitted.

Interim Committees

Stephen Fettig and Paul Stokes of Verified Voting New Mexico and United Voters New Mexico presented the council with a letter urging the continuation of the Election Reform Task Force. Mr. Fettig noted that three priorities discussed by the task force remain unresolved: post-election audit provisions, relief of county indebtedness for voting machines and election day registration.

Senator Altamirano suggested that the council confirm the appointments made to interim committees in 2005 except for the Election Reform Task Force, the State Permanent Fund Task Force, the Lottery Tuition Scholarship Study Subcommittee and the Public Employee Benefits Oversight Subcommittee.

Paula Tackett explained that in each member's folder was a committee list from the last interim and a multiple committee packet, divided into statutory and council-created committees. She reminded the council that, in even-numbered years, the council's recent practice has been to simply reappoint members to the same interim committees they served on for the previous year's interim.

The Legislative Council, Legislative Education Study Committee (LESC) and Legislative Finance Committee (LFC) are statutory two-year appointments and thus remain the same as in 2005.

The following appointments to interim committees were confirmed by the council:

Courts, Corrections and Justice Committee: Representative Cervantes and Senator McSorley will serve as co-chairs. Voting members are Representatives Anderson, Chasey, Park, Wirth and Youngberg and Senators Adair, Leavell, Martinez, Rainaldi, Snyder and Tsosie. Advisory members are Representatives Balderas, Martinez, Powdrell-Culbert, Rehm, Stapleton, Stewart and Swisstack and Senators Altamirano, Cravens, Garcia, Grubestic, Harden, Kernan, Lopez, Ortiz y Pino, Payne, Ryan, Michael Sanchez and Taylor.

Economic and Rural Development and Telecommunications Committee: Representative Mary Helen Garcia will serve as chair, and Senator Bernadette Sanchez will serve as vice chair. Voting members are Representatives Balderas, Campos, Foley, Hamilton, Lundstrom, McCoy and Nunez and Senators Garcia, Harden, Leavell, Martinez, Pinto, Sharer and Tsosie. Advisory

members are Representatives Chavez, Heaton, Hobbs, Park, Rodella, Ruiz and Vigil and Senators Duran, Griego, Ingle, Jennings, Neville, Rainaldi, Robinson and Ryan.

The council discussed the possibility of limiting the number of committees upon which members can serve. Members also noted that it would be valuable to know which members did not attend any meetings of committees to which they were assigned. Staff was directed to return to the council with lists of how many committees each member is assigned to and the member's attendance on those committees.

Representative Whitaker pointed out that it is not uncommon for members to appear at a meeting, spend five minutes there and then leave for the rest of the meeting. Senator Altamirano and Speaker Lujan indicated that it is their intention to recommend the appointment of a structure and process committee to study these and other issues.

Funding Formula Study Task Force: Representative Stewart will serve as co-chair, and Dick Pool, a public member, will serve as the other co-chair. Voting members are Representatives Gonzales and Moore and Senators Asbill, Nava and Taylor. Advisory members are Representatives Boykin, Chasey, Gutierrez, Hall, Marquardt, Miera, Vigil and Zanetti and Senators Altamirano, Boitano, Campos, Kernan, Lopez, Papen and Bernadette Sanchez.

Indian Affairs Committee: Representative Madalena and Senator Pinto will serve as co-chairs. Voting members are Representatives Begaye, Harrison, Herrera, Lundstrom, Tripp, Williams and Zanetti and Senators Adair, Duran, Rainaldi, Rodriguez, Ryan and Tsosie. Advisory members are Representatives Ben Lujan, Luna, Rodella, Salazar, Vaughn and Wilson and Senators Altamirano, Carraro, Martinez and Sharer.

Information Technology Oversight Committee: Senator Smith will serve as chair, and Representative Rodella will serve as vice chair. Voting members are Representatives Arnold-Jones, Taylor, Varela and Vigil and Senators Asbill, Lopez, Martinez and Payne. Advisory members are Representatives Balderas, Cheney, Fox-Young, Hobbs and Wallace and Senators Adair, Boitano, Campos, Cisneros, Griego and Ortiz y Pino.

Land Grant Committee: Senator Bernadette Sanchez will serve as chair, and Representative Miguel Garcia will serve as vice chair. Voting members are Representatives Fox-Young, Hall, Herrera and Rodella and Senators Adair, Carraro, Martinez and Ortiz y Pino. Advisory members are Representatives Balderas, Ben Lujan and Youngberg and Senators Cisneros, Griego and Sharer.

In response to a question from Senator Rawson about committee recommendations on legislation, Ms. Tackett explained that some interim committees recommend bills while others do not.

Representative Bratton pointed out that even though not all interim committees may produce legislation, they serve as a mechanism for helping legislators, particularly new ones, become educated on a variety of issues facing New Mexico and help speed the learning curve.

Staff was directed to report back to the council on the issue of bills recommended by interim committees last year.

Interim Legislative Ethics Committee: Senator Lopez and Representative Salazar will serve as co-chairs. Other voting members are Representatives Balderas, Hamilton, Martinez, McCoy, Picraux, Townsend and Youngberg and Senators Campos, Ingle, Neville, Ortiz y Pino, Payne, Rawson and Michael Sanchez.

The council discussed the governor's appointment of his own Ethics Task Force. Representative Martinez indicated that he had been asked by the governor to serve on this task force. He also explained that he had asked the governor to include other legislators on the task force, that an LCS staff member be assigned to assist the task force with drafting legislation and that the task force discuss its recommendations with the Courts, Corrections and Justice Committee and/or the Interim Legislative Ethics Committee.

Ms. Tackett explained that the Interim Legislative Ethics Committee has a statutory charge that only allows it to meet when a complaint is filed or an opinion is sought. However, she indicated that the Legislative Council could appoint a subcommittee to review ethics laws proposed by the governor's task force.

In response to a question from Senator Ingle, Ms. Tackett explained that legislators cannot be paid per diem for attendance at meetings of the governor's Ethics Task Force.

Representative Martinez indicated that the task force is gathering information on all areas of government ethics, including providing for a stipend for legislators and opening conference committees to the public. He emphasized that an LCS attorney should be present at the task force's meetings.

On a motion made, seconded and unanimously approved, the council directed the LCS to provide legal drafting assistance to the governor's Ethics Task Force.

The council also recommended that the governor's task force address all elected officials, including county and municipal officials, as well as all appointed officials.

Additionally, the council requested the task force to address the issues of publicly financed campaigns.

Senator Altamirano explained that a Legislative Committee on Compacts will not be appointed unless it becomes necessary for the committee to meet.

Legislative Health and Human Services Committee: Representative Picraux will serve as chair, and Senator Feldman will serve as vice chair. Other voting members are Representatives Boykin, Gardner and Trujillo and Senators Adair, Komadina and Papen. Advisory members are Representatives Begaye, Chasey, Cordova, Miguel Garcia, Heaton, Antonio Lujan, Madalena, Marquardt, Miera, Sandoval and Vaughn and Senators Beffort, Harden, Jennings, Kernan, Lopez, Ortiz y Pino, Rodriguez and Tsosie.

Los Alamos National Laboratory Oversight Committee: Representative Gonzales and Senator Griego will serve as co-chairs. Other voting members are Representatives Anderson, Powdrell-Culbert, Rodella and Salazar and Senators Grubestic, Martinez, Payne and Sharer. Advisory members are Representatives Ben Lujan and Wallace and Senators Altamirano, Garcia and Ingle.

Mortgage Finance Authority Act Oversight Committee: Representative Luna will serve as chair, and Senator Rodriguez will serve as vice chair. Voting members are Representatives Anderson, Ruiz and Zanetti and Senators Boitano, McSorley and Rawson. Advisory members are Representatives Foley, Gonzales and Silva and Senators Griego, Grubestic and Martinez.

New Mexico Finance Authority Oversight Committee: Senator Papen will serve as chair, and Representative Silva will serve as vice chair. Other voting members are Representatives Foley, Irwin, Lundstrom, Powdrell-Culbert, Saavedra, Stell, Tripp and Vigil and Senators Carraro, Harden, Rainaldi, Robinson, Rodriguez and Snyder. Advisory members are Representatives Balderas, Campos, Chavez, Crook, Mary Helen Garcia, Gonzales, Ben Lujan, Sandoval, Stapleton and Varela and Senators Asbill, Campos, Cravens, Duran, Fidel, Garcia, Ingle, Martinez, Neville, Rawson and Taylor.

Public School Capital Outlay Oversight Task Force: Representative Miera and Senator Nava will serve as co-chairs. Other voting members are Representatives Larranaga, Ben Lujan, Saavedra and Williams and Senators Altamirano, Asbill, Fidel and Leavell.

Radioactive and Hazardous Materials Committee: Senator Griego will serve as chair, and Representative Heaton will serve as vice chair. Other voting members are Representatives Bratton, Herrera, Antonio Lujan, Trujillo and Wallace and Senators Asbill, Grubestic, Kernan, Leavell and Martinez. Advisory members are Representatives Anderson, Salazar and Wilson and Senators Garcia, Harden, Payne and Pinto.

Revenue Stabilization and Tax Policy Committee: Representative Whitaker will serve as chair, and Senator Smith will serve as vice chair. Other voting members are Representatives Arnold-Jones, Crook, Gardner, Gonzales, Hanosh, Ben Lujan, Silva and Taylor and Senators Boitano, Cisneros, Cravens, Fidel, Sharer, Snyder and Taylor. Designees are Representatives Boykin, Bratton, Harrison, Herrera, Nunez, Rehm, Rodella, Saavedra, Stell, Tripp and Varela and Senators Beffort, Griego, Grubestic, Ingle, McSorley, Neville, Rawson, Rodriguez, Ryan and Bernadette Sanchez.

Tobacco Settlement Revenue Oversight Committee: Representative Chasey and Senator Garcia will serve as co-chairs. Other voting members are Representatives Picraux and Vaughn and Senators Grubestic and Ryan. Advisory members are Representatives Begaye, Varela and Zanetti and Senators Adair, Carraro, Feldman, Lopez and Taylor.

Water and Natural Resources Committee: Representative Stell will serve as chair, and Senator Cisneros will serve as vice chair. Other voting members are Representatives Begaye, Cervantes, Irwin, Larranaga, McCoy, Nunez, Stewart, Townsend and Tripp and Senators Beffort, Feldman, Garcia, Nava, Neville, Papen and Snyder. Advisory members are Representatives Cheney, Crook, Ezzell, King, Ben Lujan, Madalena, Marquardt, Picraux, Saavedra, Wirth and Youngberg and Senators Adair, Asbill, Harden, Jennings, Kernan, Rawson, Rodriguez, Ryan and Tsosie.

Welfare Reform Oversight Committee: Representative Varela will serve as chair, and Senator Lopez will serve as vice chair. Other voting members are Representatives Harrison, Salazar, Trujillo, Vaughn and Wilson and Senators Beffort, Harden, Neville, Ortiz y Pino and Pinto. Advisory members are Representatives Chavez, Cheney, Cordova, Ezzell, Foley, Larranaga and Sandoval and Senators Altamirano, Duran and Ryan.

Members of the council were provided with copies of the calendar proposing meeting dates for interim committees. Ms. Tackett explained that the calendar was put together to minimize conflicts in the schedules of voting members on interim committees. She also noted that staff is trying to put together packets containing each interim committee's proposed work plan to mail to members of the council for review before the June 28 meeting.

Senator McSorley noted that the proposed July meeting dates for the Courts, Corrections and Justice Committee conflict with the Commission on Uniform State Laws' meeting.

The council adopted the proposed interim committee meeting dates, but authorized staff to make the adjustments raised at the council meeting.

Members of the council were then presented with a list of focus issues for each interim committee. Raul Burciaga explained that the co-chairs of the council had requested that key areas be identified for each committee and proceeded to review the proposed areas of focus for each committee.

Representative Marquardt suggested that nursing home staffing levels and teen pregnancy issues be added to the focus issues for the Legislative Health and Human Services Committee.

Members of the council added gasoline tax issues, highway maintenance and unplanned revenues to the focus issues for the Revenue Stabilization and Tax Policy Committee.

Ms. Tackett explained that the focus issues were based on staff review and an analysis of interim committees' work for the last three to five years. The council adopted these issues and directed committees to focus on them in crafting their work plans that are to be submitted to the council for approval.

As directed by the co-chairs of the council, Ms. Tackett then discussed the potential formation of three new interim committees. She explained that three committees had been proposed: a Capital Outlay Subcommittee, a Minimum Wage Subcommittee and an Investment and Pension Oversight Committee. She also noted that the council could appoint members to these committees at its June meeting. Senator Ingle indicated that it would be preferable if the Capital Outlay Subcommittee could be larger by adding two members from each house.

Ms. Tackett explained that the Investment and Pension Oversight Committee could primarily focus on such entities as the State Investment Office and the Public Employees Retirement Association and could likely contain five house and five senate members.

Ms. Tackett then explained that the Capital Outlay Subcommittee would be a joint legislative council and LFC committee. The committee would look at process issues and tracking and prioritization of capital outlay projects. It could consist of six members from the Legislative Council and six members of the Legislative Finance Committee.

On a motion made, seconded and unanimously approved, the council approved the formation of the three new interim committees.

In response to a question from Representative Marquardt, Ms. Tackett explained that the scheduled meetings for the Funding Formula Study Task Force are for issuing a request for proposals, evaluating proposals and selecting a consultant and that the task force will not meet again until closer to the next legislative session.

Legislative Structure and Process Review Study — Proposal Format

Ms. Tackett provided the council with a proposal and process. She explained that at its January meeting, the Legislative Council had directed staff to return with a proposal for a study of the overall legislative process. The proposal suggested that the Legislative Council appoint a task force to study legislative structure and process and develop recommendations. The proposal went on to suggest that the task force could be composed of 25 members, 13 public members from diverse backgrounds and 12 members of the legislature who have served for varying numbers of terms, and that it be co-chaired by two public members. Other elements of the proposal include the involvement of the National Conference of State Legislatures and New Mexico First in surveys, interviews and town hall meetings. The estimated 2006 interim cost of the proposal is \$80,000.

The council discussed various elements of the proposal, particularly the prospect of the task force being co-chaired by two public members. Ms. Tackett explained that the rationale for recommending the public co-chairs was that if recommendations from the task force came in the

form of constitutional amendments, public support would be helpful in getting them passed. Several members recommended that at least one of the co-chairs be either a current or former legislator.

Other concerns raised about the proposal included the involvement of staff, such as the chief clerks' offices; ensuring that the scope of the task force be clarified to reflect the breadth of the study desired; and that it not be construed as narrow or limited.

The council moved to approve the amended proposal.

Webcasting Proposal

John Yaeger explained to the council that \$75,000 in severance tax bond proceeds had been appropriated to the LCS to plan and design a system and purchase and install equipment required to webcast legislative sessions. Mr. Yaeger went on to list a number of issues connected to webcasting legislative sessions that would likely need to be studied by the LCS, including: costs; archiving; accessibility; security; potential partnerships with public broadcasters; and whether to webcast other proceedings in addition to floor sessions. He also pointed out that the LCS would need to certify to the State Board of Finance that it is ready to move forward with the webcasting project.

On a motion made and approved, the council directed staff to study the issues regarding webcasting of legislative sessions and report back to the council, with Senators Ingle, Rawson and Michael Sanchez voting no.

Funding Formula Study Task Force Funding Request

Ms. Tackett explained to the council that, through the passage of House Bill 25 in the last session, the work of the Funding Formula Study Task Force (FFTF) has been extended for one year. She also noted that a representative from the education unions has been added to the task force this interim. Ms. Tackett went on to note that the studies called for by the task force are generally costly endeavors and, since the appropriation request had been cut in half, requested, on behalf of the task force, that \$100,000 from the legislative interim expense account be authorized to help pay for the study. She indicated that the LESC and LFC had also expressed their intention to contribute some funding and that the Department of Finance and Administration and the Public Education Department had also been asked.

On a motion made, seconded and unanimously approved, the council approved the transfer of \$100,000 from the legislative interim expense account to the FFTF.

On a motion made, seconded and unanimously approved, the council approved the appointment of Charles Bowyer to the task force as the representative of the education unions.

Staff Reports

Ms. Tackett reminded the council that, in election years, statutes mandate that nonreturning members of the legislature, as well as those members defeated in primary elections,

may not travel to meetings of national committees without the approval of three-fourths of the voting members of the Legislative Council.

On a motion made, seconded and unanimously approved, the council approved the payment of per diem, mileage and travel for nonreturning members of the legislature and those members defeated in primary elections to attend meetings of national committees to which they were appointed.

Ms. Tackett indicated that John Garcia, secretary of veterans' services, had sent a letter to the co-chairs of the council requesting that he be allowed to make a presentation to the council regarding veterans' affairs. The council discussed ways of addressing Secretary Garcia's request. It was pointed out that the LFC had scheduled a briefing on veterans' affairs.

Staff was directed to arrange for a presentation regarding veterans' issues at the next council meeting.

A request for additional office space for the LESC was presented to the council. Staff was directed to schedule meetings of the Facilities Review Subcommittee to address these space issues.

Ms. Tackett provided the council with the results of the audit of various legislative agencies for fiscal year 2005. She explained that one firm conducted an audit of the chief clerks' offices, Legislative Building Services and the LCS. Ms. Tackett noted that weaknesses had been discovered by the auditors with regard to: employment, tax documents and leave balances for employees of the Legislative Building Services; computer equipment disposal and inventory at the LCS; and a small number of unreported leave hours in the House Chief Clerk's Office. She pointed out that additional controls and procedures have been implemented in each area where weaknesses were discovered. Ms. Tackett also pointed out that no audit exceptions were found in the Senate Chief Clerk's Office.

On a motion made, seconded and unanimously approved, the council approved the audit findings. Speaker Lujan asked that copies of the LFC and LESC audits be reviewed, and provided to the council if there were exceptions.

The council recognized Representative Miera for his receipt of an honorary doctorate degree in human arts from the College of Santa Fe.

Ms. Tackett provided the committee with the resumes of three applicants to the Capitol Art Foundation. Senator Rawson objected to the appointment of Delmas Howe to the foundation, noting that among the exhibitions he has put on is an exhibit called "The Male Nude: A Modern View". Senator Rawson pointed out that small children are often present in the capitol, and that it is important to have a clear standard of what is acceptable to display in a public building.

On a motion made, seconded and approved, the council approved the appointment of William Ebie, Delmas Howe and Karen Wiley to the Capitol Art Foundation, with Senator Rawson voting no on the appointment of Mr. Howe.

Ms. Tackett pointed out that former long-time LCS associate director Richard Folmar had passed away recently, and a memorial service was held in the Rotunda.

In response to a question from Senator Rawson, Ms. Tackett indicated that the west side steps of the capitol would be completed as soon as the new handrails were installed and the snow-melting system had been properly tested.

There being no further business, the council adjourned at 2:05 p.m.